

HOUSE BILL No. 5834

May 29, 1990, Introduced by Rep. Saunders and referred to the Committee on Urban Affairs.

A bill to establish a manufactured home warehouser lien; to provide for the rights and duties afforded to the holder of a manufactured home warehouser lien; and to provide for a public auction.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "manufactured home warehouser lien act".

3 Sec. 2. As used in this act:

4 (a) "Manufactured home" means that term as defined in sec-
5 tion 2 of the manufactured housing commission act, Act No. 96 of
6 the Public Acts of 1987, being section 125.2302 of the Michigan
7 Compiled Laws.

8 (b) "Manufactured home warehouser" means a person who
9 engages in the business of moving or storing manufactured homes.

1 (c) "Registered owner" means the registered owner of a
2 manufactured home and includes, but is not limited to, a
3 conditional sale vendee or a mortgagor remaining in possession of
4 a manufactured home.

5 (d) "Warehouser lien" means a manufactured home warehouser
6 lien created pursuant to section 3.

7 Sec. 3. A manufactured home warehouser who, pursuant to an
8 express, implied, written, or oral contract, moves or stores a
9 manufactured home shall have a warehouser lien upon any manufac-
10 tured home moved or stored by the manufactured home warehouser.
11 The warehouser lien shall be in the proper amount due the manu-
12 factured home warehouser for the moving and storage of the manu-
13 factured home. Any fees or other expenses for which a lien is
14 claimed under this section shall be the reasonable and customary
15 charges which the manufactured home warehouser ordinarily demands
16 in the course of business.

17 Sec. 4. A manufactured home warehouser may detain a manu-
18 factured home in his or her possession for 90 days after perform-
19 ing the labor or furnishing the supplies for which a warehouser
20 lien is claimed. After this period, a warehouser shall file
21 notice of claim of a warehouser lien pursuant to section 6.

22 Sec. 5. A warehouser lien for labor and material furnished
23 in moving and storage of a manufactured home shall have priority
24 over all other liens upon the manufactured home except a prior
25 perfected security interest. A holder of a chattel mortgage,
26 conditional sales agreement, security interest, or other lien
27 created prior to the accrual of the warehouser lien may agree to

1 subordinate its interest to that of the manufactured home
2 warehouser. A warehouser lien exceeding \$1,000.00 for a
3 single-section manufactured home or \$2,000.00 for a multi-section
4 manufactured home shall be of no effect as against the holder of
5 a chattel mortgage, security interest, conditional sales agree-
6 ment, or other lien prior to the accrual of the warehouser lien.
7 If a holder of a chattel mortgage, conditional sales agreement,
8 security interest, or other lien created prior to the accrual of
9 the warehouser lien who has agreed to subordinate its interest to
10 the manufactured home warehouser pays to the manufactured home
11 warehouser the amount of the warehouser lien, the warehouser lien
12 shall be released and the payment made to release the warehouser
13 lien shall be added to the amount of the lien of the prior
14 lienholder.

15 Sec. 6. (1) A manufactured home warehouser lien may be
16 enforced only as provided in this act.

17 (2) A manufactured home warehouser whose warehouser lien is
18 not satisfied may sell the manufactured home subject to a lien at
19 a sale conforming to this act, except that the manufactured home
20 warehouser may not sell the manufactured home if it is subject to
21 a prior perfected security interest.

22 (3) The registered owner of the manufactured home shall be
23 notified of the proposed sale to satisfy the claim by notice per-
24 sonally delivered or sent by certified mail to the last known
25 address provided to the manufactured home warehouser by the reg-
26 istered owner, or the address that was last made known to the
27 manufactured home park operator if the request for moving and

1 storage was made at the request of the manufactured home park
2 owner.

3 (4) If the request to move and store the manufactured home
4 was made by a manufactured home park operator who is not the reg-
5 istered owner of the manufactured home, 2 copies of the notice of
6 proposed sale also shall be provided to the manufactured home
7 park operator. The manufactured home park operator shall post 1
8 copy of the notice of proposed sale on a bulletin board or other
9 conspicuous common area of the manufactured home park and shall
10 keep 1 copy on file which shall be made available for inspection
11 by the registered owner or a holder of a security interest or
12 other lien on the manufactured home.

13 (5) The manufactured home warehouser shall deliver a notice
14 of proposed sale to any lienholder as disclosed on the manufac-
15 tured home title filed with the department of commerce. The
16 notice shall be personally delivered or sent by registered or
17 certified mail to the last known address of the lienholder as
18 disclosed by the records of the department of commerce. The
19 warehouser lien shall be of no effect as against a lienholder
20 described in this section if the manufactured home warehouser
21 fails to provide notice to the lienholder as prescribed in this
22 section.

23 (6) The manufactured home warehouser shall deliver a notice
24 of proposed sale to the department of commerce. Notice shall be
25 sent by first-class mail, addressed to the department of com-
26 merce, manufactured home commission, Lansing, Michigan.

1 (7) The notice of proposed sale shall be written in plain
2 language, using words and phrases of common meaning and
3 understanding, and shall include all of the following:

4 (a) A brief general description of the manufactured home
5 subject to the warehouser lien.

6 (b) An itemized statement of the manufactured home ware-
7 houser claim showing the amount due and the date on which it
8 became due.

9 (c) A conspicuous statement, in not less than 12-point type,
10 indicating that unless the registered owner pays the amount
11 claimed within the time stated in the notice of proposed sale or
12 makes other arrangements suitable to the manufactured home ware-
13 houser, that the manufactured home will be advertised for sale
14 and sold. The statement shall specify the date, time, place, and
15 manner of the proposed sale. The date of the sale shall not be
16 less than 65 days from the date of service of the notice of pro-
17 posed sale.

18 (d) The name, address, and telephone number where the manu-
19 factured home warehouser may be contacted by the registered owner
20 of the manufactured home, holder of a security interest, or other
21 lienholder.

22 Sec. 7. (1) If the charges stated in an itemized statement
23 of account are not paid within 65 days after service of a claim
24 of a warehouser lien and the itemized statement of account and
25 there is no prior perfected security interest, the manufactured
26 home warehouser may sell the manufactured home at a public
27 auction.

1 (2) If the manufactured home warehouser directly or
2 indirectly purchases the manufactured home at the sale, the pro-
3 ceeds of the sale shall be considered to be either the amount
4 paid by the manufactured home warehouser or the fair cash market
5 value of the manufactured home at the time of sale, whichever is
6 greater.

7 (3) Any surplus received at the sale, after all charges of
8 the manufactured home warehouser have been paid and satisfied and
9 all reasonable charges of conducting the sale have been deducted,
10 shall then be used to pay the claim of any lienholder who has
11 given notice of his or her claim of lien to the manufactured home
12 warehouser. Any remaining funds shall be returned to the regis-
13 tered owner of the manufactured home.

14 (4) After the sale of a manufactured home as provided in
15 this section, the buyer of the home shall make application for a
16 manufactured home title as required by the manufactured housing
17 commission act, Act No. 96 of the Public Acts of 1987, being sec-
18 tions 125.2301 to 125.2349 of the Michigan Compiled Laws. Upon
19 receipt of an application for title and payment of the fee, the
20 department shall issue a title to the new owner.

21 Sec. 8. A registered owner who suffers damages because a
22 manufactured home warehouser or a manufactured home park operator
23 fails to comply with this act may bring an action in a court of
24 appropriate jurisdiction for the actual amount of the damages, or
25 \$250.00, whichever is greater, together with reasonable
26 attorneys' fees.

1 Sec. 9. This act does not authorize the removal of a
2 manufactured home resident from a manufactured home in violation
3 of the requirements of chapter 57 of the revised judicature act
4 of 1961, Act No. 236 of the Public Acts of 1961, being sections
5 600.5701 to 600.5759 of the Michigan Compiled Laws, or interfer-
6 ence with a tenant's possessory interest in violation of section
7 2918 of Act No. 236 of the Public Acts of 1961, being section
8 600.2918 of the Michigan Compiled Laws.

9 Sec. 10. This act shall not take effect unless all of the
10 following bills of the 85th Legislature are enacted into law:

11 (a) Senate Bill No. _____ or House Bill No. 5836
12 (request no. 05414'90).

13 (b) Senate Bill No. _____ or House Bill No. 5835
14 (request no. 05415'90).